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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,712	11/13/2001	Nils Carlin	REF/CARLIN/509	7758
7590 03/24/2004			EXAMINER	
Bacon & Thomas Fourth Floor 625 Slaters Lane Alexandria, VA 22314-1176			DEVI, SARVAMANGALA J N	
			ART UNIT	PAPER NUMBER
			1645	

DA: E MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/700,712

Applicant(s)

CARLIN ET AL.

Examiner

S. Devi, Ph.D.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 ~~is/are~~ are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-16 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

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Lack of Unity of Invention(s)

- 1) Claims 1-16 are under prosecution.
- 2) **Please Note:** In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Paula Hutzell, Ph.D., Supervisory Patent Examiner at Paula.Hutzell@uspto.gov or 571-272-0531. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.
- 3) The instant invention lacks unity under PCT Rule 13.1 and 13.2:
 - I. Claims 1-9, 12, 13 and 16, drawn to a method of producing a *thy A*⁻ strain of *Vibrio cholerae* comprising the step of site-directed mutagenesis at the *thy A* gene locus; a *thy A*⁻ strain of *Vibrio cholerae*; and a vaccine comprising the same.
 - II. Claims 10, 14 and 15, drawn to a nucleotide sequence of a 5' flanking region of a structural *thy A* gene of *Vibrio cholerae* having the nucleotide sequence of SEQ ID NO: 2.
 - III. Claim 11, drawn to a nucleotide sequence of a 3' flanking region of a structural *thy A* gene of *Vibrio cholerae* having the nucleotide sequence of SEQ ID NO: 3.
- 4) Inventions I to III lack unity of invention. PCT Rule 13.2 stipulates that the international application shall relate to one invention only or to a group so linked so as to form a single general inventive concept. Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding 'special technical features', i.e., technical features that define a novel and inventive contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

In the instant application, the above-identified three inventions are related to three

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different nucleotide sequences: a) the nucleotide sequence of the *thy A* gene of *V. cholerae*, SEQ ID NO: 1; b) the nucleotide sequence of a 5' flanking region of the *thy A* gene, SEQ ID NO: 2; and c) the nucleotide sequence of a 3' flanking region of the *thy A* gene, SEQ ID NO: 3. These sequences do not share significant structural elements. Therefore, no 'corresponding' special technical feature is found between the three different nucleotide sequences and their encoded proteins.

5) Applicants are advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 C.F.R. 1.143).

6) Any inquiry concerning this communication or earlier communication(s) from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail service. The Examiner can normally be reached on Monday to Friday from 7.15 a.m to 4.15 p.m. except one day each bi-week which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (571) 272-0864.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

March, 2004


S. DEVI, PH.D.
PRIMARY EXAMINER